



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No: 1098-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 4 March 2022. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

You enlisted in the Marine Corps and began a period of active service on 29 October 2001. On 6 June 2004, you were counseled on two occasions for the following misconduct: ten specifications of unauthorized absence (UA), and lack of financial responsibility, and indebtedness. Specifically, your failure to pay nine different creditors. You were further notified continued deficiencies may result in the initiation of administrative separation proceedings. On 1 July 2004, you received non-judicial punishment (NJP) for two specifications of UA, and failure to obey a lawful order. On 24 July 2004, you were counseled for UA, and you were notified further misconduct may result in the initiation of administrative separation proceedings. On 5 August 2004, you received NJP for two specifications of UA, and two specifications of failure to obey a lawful regulation. On the same day, you were counseled regarding your pattern of misconduct. On 3 September 2004, you were convicted at a summary court martial (SCM) for two specifications of making a false official statement, breaking restriction, and impersonating a police officer. On 4 January 2005, you were notified of the initiation of administrative separation proceedings by reason of misconduct due to the pattern of

misconduct, at which point, you waived your right to consult with counsel, and review of your case by an administrative discharge board (ADB). On the same day, your commanding officer recommended your discharge from the Marine Corps with an other than honorable (OTH) character of service by reason of misconduct due to pattern of misconduct. On 7 February 2005, the separation authority concurred with your commanding officer's recommendation. On 18 February 2005, you were discharged with an OTH character of service by reason of misconduct due to pattern of misconduct.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your character of service to honorable. You state you currently work for the Sheriff's office. You contend an upgrade to your character of service can help you get a job as a deputy, and possibly a detective position in the future. The Board concluded you failed to provide evidence to support your contentions. The Board found no evidence in the record to warrant a change to your discharge given your misconduct, which resulted in two NJPs and one SCM. The Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board noted the severity of your repeated misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

3/21/2022

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Executive Director
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